

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 1011

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Joni Marie Gutierrez

AN ACT

RELATING TO TAXATION; CREATING CHILE PRODUCTION TAX CREDITS THAT MAY BE TAKEN AGAINST A TAXPAYER'S GROSS RECEIPTS TAX, COMPENSATING TAX AND WITHHOLDING TAX DUE AND THE TAXPAYER'S PERSONAL INCOME TAX OR CORPORATE INCOME TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] CHILE PRODUCTION TAX CREDIT--INCOME TAX LIABILITY.--

A. A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who is a qualified taxpayer may apply for and may be granted a tax credit by the department pursuant to this section. The tax credit provided in this section may be

underscoring material = new
[bracketed material] = delete

underscoring material = new
[bracketed material] = delete

1 referred to as the "chile production tax credit".

2 B. A taxpayer who is authorized by the department
3 to receive a chile production tax credit to be claimed against
4 that taxpayer's gross receipts tax, compensating tax and
5 withholding tax liabilities may claim a chile production tax
6 credit pursuant to this section if the taxpayer has a balance
7 of chile production tax credit remaining to be claimed and is
8 not applying the balance against the taxpayer's gross receipts
9 tax, compensating tax or withholding tax. A copy of the
10 qualified taxpayer's chile production tax credit document shall
11 be included with the individual income tax return filed by the
12 taxpayer at the time that the chile production tax credit is
13 claimed. The taxpayer shall state on each return the amount of
14 the chile production tax credit that the taxpayer is applying
15 against the taxpayer's tax liability.

16 C. A qualified taxpayer may apply the balance of
17 the taxpayer's chile production tax credit against the
18 taxpayer's individual income tax liability for the year in
19 which the qualifying event occurred in an amount determined by
20 the department and reflected on the taxpayer's chile production
21 tax credit document.

22 D. A husband and wife filing separate returns for a
23 taxable year in which they could have filed a joint return may
24 each claim only one-half of the chile production tax credit
25 that would have been allowed them in a joint return.

.164821.1

1 E. As used in this section:

2 (1) "chile processor" means a person who
3 processes chile for resale;

4 (2) "chile producer" means a person who grows
5 chile for resale;

6 (3) "chile production tax credit document"
7 means a document issued by the department stating the amount of
8 chile production tax credit that a qualified taxpayer is
9 authorized to apply against the taxpayer's gross receipts tax,
10 compensating tax and withholding tax liabilities or the
11 taxpayer's liability pursuant to the Income Tax Act or the
12 Corporate Income and Franchise Tax Act;

13 (4) "process" means to roast, dry, freeze,
14 can, cook or brine chile or to extract the color from chile;

15 (5) "qualified taxpayer" means a chile
16 producer or chile processor who harvests or processes chile on
17 or after July 1, 2007, and who has been issued a chile
18 production tax credit document by the department that
19 authorizes the taxpayer to claim a chile production tax credit
20 against certain portions of the taxpayer's tax liabilities; and

21 (6) "qualifying event" means:

22 (a) the harvesting of chile on or after
23 July 1, 2007; or

24 (b) the processing of chile on or after
25 July 1, 2007."

underscoring material = new
[bracketed material] = delete

1 Section 2. A new section of the Corporate Income and
2 Franchise Tax Act is enacted to read:

3 "[NEW MATERIAL] CHILE PRODUCTION TAX CREDIT--CORPORATE
4 INCOME TAX LIABILITY.--

5 A. A qualified taxpayer that files a corporate
6 income tax return pursuant to the Corporate Income and
7 Franchise Tax Act may claim a credit pursuant to this section
8 against the taxpayer's corporate income tax liability. The tax
9 credit that may be claimed pursuant to this section may be
10 referred to as the "chile production tax credit".

11 B. A taxpayer that is authorized to claim a chile
12 production tax credit to be taken against that taxpayer's gross
13 receipts tax, compensating tax and withholding tax liabilities
14 may claim the chile production tax credit if the department
15 determines that a balance of the chile production tax credit
16 remains and the taxpayer is not applying the balance against
17 the taxpayer's gross receipts tax, compensating tax or
18 withholding tax. A copy of the qualified taxpayer's chile
19 production tax credit document shall be included with the
20 corporate income tax return filed by the taxpayer at the time
21 that the chile production tax credit is claimed. The taxpayer
22 shall state on each return the amount of the chile production
23 tax credit that the taxpayer is applying against the taxpayer's
24 tax liability.

25 C. A qualified taxpayer may apply the balance of

.164821.1

1 the taxpayer's chile production tax credit against the
2 taxpayer's corporate income tax liability for the year in which
3 the qualifying event occurred in an amount allowed by the
4 department.

5 D. As used in this section:

6 (1) "chile processor" means a person that
7 processes chile for commercial sale;

8 (2) "chile producer" means a person that grows
9 chile for commercial sale;

10 (3) "chile production tax credit document"
11 means a document issued by the department stating the amount of
12 chile production tax credit that a qualified taxpayer is
13 authorized to apply against certain tax liabilities;

14 (4) "process" means to roast, dry, freeze,
15 can, cook or brine chile or to extract the color from chile;

16 (5) "qualified taxpayer" means a chile
17 producer or chile processor that harvests or processes chile on
18 or after July 1, 2007, and that is issued a chile production
19 tax credit document by the department that authorizes the
20 taxpayer to claim a chile production tax credit against certain
21 portions of the taxpayer's tax liabilities; and

22 (6) "qualifying event" means:

23 (a) the harvesting of chile on or after
24 July 1, 2007; or

25 (b) the processing of chile on or after

underscored material = new
[bracketed material] = delete

1 July 1, 2007."

2 Section 3. [NEW MATERIAL] CHILE PRODUCTION TAX CREDIT--
3 ELIGIBILITY--AMOUNT--GROSS RECEIPTS TAX, COMPENSATING TAX AND
4 WITHHOLDING TAX--BALANCES.--

5 A. The tax credit provided in this section may be
6 referred to as the "chile production tax credit". The chile
7 production tax credit shall be administered by the department
8 pursuant to the Tax Administration Act.

9 B. A person is eligible for the chile production
10 tax credit if the person is:

11 (1) a chile producer and harvested chile on or
12 after July 1, 2007; or

13 (2) a chile processor and processed chile
14 after July 1, 2007.

15 C. The amount of the chile production tax credit
16 shall equal:

17 (1) in regard to chile initially processed by
18 drying, one hundred dollars (\$100) per ton of dried chile
19 harvested or processed by the taxpayer; and

20 (2) in regard to chile processed in any other
21 manner, twenty dollars (\$20.00) per ton of raw chile harvested
22 or processed by the taxpayer.

23 D. A taxpayer may claim the chile production tax
24 credit by submitting to the department documentation of the
25 amount of chile harvested or processed by the taxpayer on a

.164821.1

underscoring material = new
[bracketed material] = delete

1 form prescribed by the department. The taxpayer shall provide
2 any other information required by the department. Within one
3 year from the end of the calendar year in which the qualifying
4 event occurred, the taxpayer shall apply to the department for
5 a determination of the amount of the chile production tax
6 credit the taxpayer is allowed to claim.

7 E. The department shall determine the amount of tax
8 credit that the taxpayer is allowed to claim for the qualifying
9 event and shall issue to the qualified taxpayer a chile
10 production tax credit document that states the amount of the
11 chile production tax credit allowed to be claimed by the
12 taxpayer.

13 F. A taxpayer, having applied for and been issued a
14 chile production tax credit document by the department stating
15 the amount of the chile production tax credit the qualified
16 taxpayer is allowed to claim pursuant to this section, may
17 claim the allowable amount of the chile production tax credit
18 against the taxpayer's gross receipts tax, compensating tax or
19 withholding tax liability. The taxpayer shall submit a copy of
20 the chile production tax credit document to the department with
21 each tax return to which the taxpayer applies the chile
22 production tax credit. The taxpayer shall state on each return
23 the amount of the chile production tax credit that the taxpayer
24 is applying against the taxpayer's tax liability.

25 G. If the amount of the chile production tax credit

.164821.1

1 allowed the qualified taxpayer by the department exceeds the
2 total gross receipts tax, compensating tax and withholding tax
3 liability of the taxpayer for the reporting period in which the
4 claim is made, the taxpayer may carry over and claim the
5 balance against the taxpayer's subsequent gross receipts tax,
6 compensating tax or withholding tax liability for a period of
7 three years from the last day of the year in which the
8 qualifying event occurred. The balance remaining on a chile
9 production tax credit document may be claimed as a chile
10 production tax credit against the taxpayer's liability pursuant
11 to the Income Tax Act or as a chile production tax credit
12 against the taxpayer's liability pursuant to the Corporate
13 Income and Franchise Tax Act.

14 H. As used in this section:

- 15 (1) "chile processor" means a person who
16 processes chile for resale;
- 17 (2) "chile producer" means a person who grows
18 chile for resale;
- 19 (3) "chile production tax credit document"
20 means a document issued by the department stating the amount of
21 chile production tax credit that a qualified taxpayer is
22 authorized to apply against the taxpayer's gross receipts tax,
23 compensating tax or withholding tax liability or the taxpayer's
24 liability pursuant to the Income Tax Act or the Corporate
25 Income and Franchise Tax Act;

.164821.1

underscoring material = new
[bracketed material] = delete

1 (4) "department" means the taxation and
2 revenue department;

3 (5) "process" means to roast, dry, freeze,
4 can, cook or brine chile or to extract the color from chile;

5 (6) "qualified taxpayer" means a taxpayer who
6 is a chile producer or chile processor who harvests or
7 processes chile after June 30, 2007, who is issued a chile
8 production tax credit document by the department that
9 authorizes the taxpayer to claim a chile production tax credit
10 against certain portions of the taxpayer's tax liabilities;

11 (7) "qualifying event" means:

12 (a) the harvesting of chile on or after
13 July 1, 2007; or

14 (b) the processing of chile on or after
15 July 1, 2007; and

16 (8) "taxpayer" means a person liable for
17 payment of gross receipts tax, compensating tax or withholding
18 tax or other taxes against which the balance of a chile
19 production tax credit may be claimed.

20 Section 4. APPLICABILITY.--The provisions of Sections 1
21 and 2 of this act are applicable to taxable years beginning on
22 or after January 1, 2007.

23 Section 5. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2007.